



MICHIGAN
HOUSE OF REPRESENTATIVES
P.O. Box 30014
LANSING, MICHIGAN 48909-7514

THE MINUTES OF THE HOUSE STANDING COMMITTEE
ON
COMMERCE AND TRADE

Tuesday, February 23, 2016

10:30 a.m.

Room 519 House Office Building

The House Standing Committee on Commerce and Trade was called to order by **Representative Joseph Graves**, Chair.

MEMBERS PRESENT: Representatives Graves, Sheppard, Callton, Jenkins, Johnson, Rendon, Somerville, Hughes, Barrett, Garcia, Glenn, Leutheuser, Schor, Townsend, Byrd, Garrett, Geiss, Love and Moss.

MEMBERS ABSENT/EXCUSED: None.

Representative Garcia moved to adopt the minutes from the **February 9, 2016**, meeting. There being no objection, the motion prevailed by unanimous consent.

Chair Graves placed the committee at ease @ 10:37 a.m.
The committee reconvened at 10:47 a.m.

Chair Graves laid **SB 490** before the committee:

SB 490 (Schuitmaker) Trade; business practices; video rental privacy statute; modify.

Representative Schor moved to adopt the substitute (**H-1**) to **SB 490**.

The motion prevailed by a vote of **19-0-0**.

FAVORABLE ROLL CALL:

Yeas: Representatives Graves, Sheppard, Callton, Jenkins, Johnson, Rendon, Somerville, Hughes, Barrett, Garcia, Glenn, Leutheuser, Schor, Townsend, Byrd, Garrett, Geiss, Love and Moss,

Nays: None,

Pass: None.

Representative Townsend offered and moved to adopt the following amendment:

1. Amend page 2, line 14, by striking out "**KNOWINGLY**".

The motion did not prevail by a vote of **7-12-0**.

UNFAVORABLE ROLL CALL:

Yeas: Representatives Schor, Townsend, Byrd, Garrett, Geiss, Love and Moss,

Nays: Representatives Graves, Sheppard, Callton, Jenkins, Johnson, Rendon, Somerville, Hughes, Barrett, Garcia, Glenn and Leutheuser,
Pass: None.

Representative Townsend offered and moved to adopt the following amendment:

1. Amend page 4, line 26, after “distress” by inserting a comma and “**OR \$1,000.00, WHICHEVER IS GREATER**”.

The motion did not prevail by a vote of **7-12-0**.

UNFAVORABLE ROLL CALL:

Yeas: Representatives Schor, Townsend, Byrd, Garrett, Geiss, Love and Moss,
Nays: Representatives Graves, Sheppard, Callton, Jenkins, Johnson, Rendon, Somerville, Hughes, Barrett, Garcia, Glenn and Leutheuser,
Pass: None.

Representative Moss offered and moved to adopt the following amendment:

1. Amend page 3, line 12, by striking out all of subparagraphs *(i)*, *(ii)*, and *(iii)* and inserting:

"(i) UNLESS THE DISCLOSURE IS AUTHORIZED UNDER SUBDIVISION (A), (B), (C), OR (D), A PERSON SHALL NOT DISCLOSE A CUSTOMER'S NONPUBLIC RECORD OR INFORMATION UNDER THIS SUBDIVISION TO ANOTHER PERSON WITHOUT THE PRIOR AND SPECIFIC INFORMED CONSENT, IN WRITING, OF THE CUSTOMER, AND THE CUSTOMER MAY WITHDRAW HIS OR HER CONSENT AT ANY TIME.

(ii) IF A CUSTOMER CONSENTS TO THE DISCLOSURE OF A NONPUBLIC RECORD OR INFORMATION TO ANOTHER PERSON UNDER SUBPARAGRAPH (i), THE NONPUBLIC RECORD OR INFORMATION SHALL NOT BE DISCLOSED UNLESS THAT OTHER PERSON AGREES TO PROTECT AND USE THE DISCLOSED RECORD OR INFORMATION ONLY IN THE MANNER AUTHORIZED UNDER THIS ACT. THIS SUBPARAGRAPH DOES NOT APPLY TO A DISCLOSURE MADE TO THE DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES, THE DIRECTOR OF THAT DEPARTMENT, ANOTHER GOVERNMENTAL AGENCY OR ENTITY, OR A COURT.

(iii) IF A CUSTOMER CONSENTS TO THE DISCLOSURE OF A NONPUBLIC RECORD OR INFORMATION TO ANOTHER PERSON UNDER SUBPARAGRAPH (i), THE NONPUBLIC RECORD OR INFORMATION SHALL NOT BE DISCLOSED UNLESS THAT OTHER PERSON AGREES NOT TO RELEASE THE INFORMATION TO ANY OTHER PERSON WITHOUT ANOTHER PRIOR AND SPECIFIC INFORMED CONSENT FROM THE CUSTOMER, IN WRITING, AUTHORIZING THE ADDITIONAL DISCLOSURE.

(iv) THE PERSON THAT IS DISCLOSING THE INFORMATION SHALL INFORM THE CUSTOMER BY WRITTEN NOTICE THAT THE CUSTOMER MAY WITHDRAW HIS OR HER CONSENT UNDER SUBPARAGRAPH (i) AT ANY TIME IN THE MANNER DESCRIBED IN SUBPARAGRAPH (v). ANY OF THE FOLLOWING METHODS OF NOTICE SATISFY THE WRITTEN NOTICE REQUIREMENTS OF THIS SUBPARAGRAPH:

(A) WRITTEN NOTICE INCLUDED IN OR WITH ANY MATERIALS SOLD, RENTED, OR LENT TO THE CUSTOMER UNDER SECTION 2.

(B) WRITTEN NOTICE PROVIDED TO THE CUSTOMER AT THE TIME HE OR SHE ORDERS ANY OF THE MATERIALS DESCRIBED IN SECTION 2 OR OTHERWISE PROVIDED TO THE CUSTOMER IN CONNECTION WITH THE TRANSACTION BETWEEN THE PERSON AND CUSTOMER FOR THE SALE, RENTAL, OR LOAN OF THE MATERIALS TO THE CUSTOMER.

(C) NOTICE THAT IS INCLUDED IN AN ONLINE PRIVACY POLICY OR SIMILAR COMMUNICATION THAT IS POSTED ON THE INTERNET, IS MAINTAINED BY THE PERSON THAT IS DISCLOSING THE INFORMATION, AND IS AVAILABLE TO CUSTOMERS OR THE GENERAL PUBLIC.

(v) A CUSTOMER MAY PROVIDE NOTICE THAT HE OR SHE WITHDRAWS HIS OR HER CONSENT UNDER SUBPARAGRAPH (i) TO THE PERSON THAT IS DISCLOSING INFORMATION UNDER THIS SUBDIVISION. IF THE PERSON PROVIDES A PROMINENTLY DISCLOSED AND EASY-TO-USE MECHANISM OR ADDRESS FOR SUBMISSION OF SUCH A REQUEST, THE CUSTOMER MUST SUBMIT THE NOTICE IN THAT MANNER IN ORDER FOR THE NOTICE TO BE VALID UNDER THIS SECTION.

(vi) BEGINNING 30 DAYS AFTER THE PERSON RECEIVES THE WRITTEN NOTICE DESCRIBED IN SUBPARAGRAPH (iv), THE PERSON SHALL NOT KNOWINGLY DISCLOSE THE CUSTOMER'S NAME TO ANY OTHER PERSON FOR MARKETING GOODS AND SERVICES."

The motion did not prevail by a vote of **6-12-1**.

UNFAVORABLE ROLL CALL:

Yeas: Representatives Townsend, Byrd, Garrett, Geiss, Love and Moss,
Nays: Representatives Graves, Sheppard, Callton, Jenkins, Johnson, Rendon, Somerville, Hughes, Barrett, Garcia, Glenn and Leutheuser,
Pass: Representative Schor.

Representative Sheppard moved to report **SB 490** with recommendation as substitute **(H-1)**.

The motion prevailed by a vote of **14-3-2**.

FAVORABLE ROLL CALL:

Yeas: Representatives Graves, Sheppard, Jenkins, Johnson, Rendon, Somerville, Hughes, Barrett, Garcia, Glenn, Leutheuser, Schor, Byrd and Geiss,
Nays: Representatives Townsend, Garrett and Moss,
Pass: Representative Callton and Love.

The following individuals submitted a card but did not wish to speak:

Matt Groen, representing the Michigan Cable Telecommunications Association, supports the bill.
Chris Horak, representing Comcast, supports the bill.
Del Chenault, representing Verizon, supports the bill.
Jim Kirsch, representing AT&T, supports the bill.
Shelly Weisberg, representing ACLU of Michigan, opposes the bill.

There being no further business to come before the committee, the Chair adjourned the meeting at 10:58 a.m.

Representative Joseph Graves, Chair
House Standing Committee on Commerce and Trade
Malika Abdul-Basir
Committee Clerk
517-373-7256
28 Minutes